

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Adopted and Filed

Pursuant to the authority of Iowa Code section 159.5(7), the Agriculture and Land Stewardship Department hereby amends Chapter 12, “Renewable Fuels and Coproducts,” Chapter 13, “Renewable Fuel Infrastructure Board—Organization,” Chapter 14, “Renewable Fuel Infrastructure Program for Retail Motor Fuel Sites,” Chapter 16, “Renewable Fuel Infrastructure Program Administration,” and Chapter 85, “Weights and Measures,” Iowa Administrative Code.

These amendments expand the Renewable Fuel Infrastructure Program for retail motor fuel sites by allowing funds to be used for the storing and dispensing of E-15. These amendments also set a minimum size of a renewable fuel pump decal and update label requirements for ethanol flex fuels. The new decals will need to be in place by January 1, 2018.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 2479C** on March 30, 2016.

The Iowa Corn Growers Association, the Iowa Renewable Fuels Association and Kum & Go wrote in support of the noticed amendments. The Iowa Renewable Fuels Association made some technical suggestions. The Petroleum Marketers and Convenience Stores of Iowa suggested specific changes to the provisions for “American Ethanol” labels and flex fuel labels, super/plus designations, and grant program eligibility.

The adopted amendments allow grant payments for dispensing and storing ethanol blended gasoline at or between E-15 and E-85. Changes were made that specified that the label has the name of the renewable fuel. The language was amended related to labels requiring the use of flex fuel cars. A technical change was made specifying that certain labels applied only to ethanol by volume. An outdated provision on tank wagons was rescinded.

After analysis and review of this rule making, a positive impact on jobs and the economy has been found because increased use of biofuels helps farmers, renewable fuels producers, and consumers.

These amendments are intended to implement Iowa Code sections 159.20(1) and 159A.14 and 2015 Iowa Acts, Senate File 510, division IX.

These amendments will become effective July 13, 2016.

The following amendments are adopted.

ITEM 1. Adopt the following **new** subrule 12.3(4):

12.3(4) E-15 ethanol infrastructure must be used to store and dispense E-15 gasoline as a registered fuel recognized by the United States Environmental Protection Agency for nonsummer months from September 16 to May 31.

ITEM 2. Amend rule 21—12.4(159A) as follows:

21—12.4(159A) Renewable fuels motor vehicle fuels decals. All motor vehicle fuel kept, offered or exposed for sale or sold at retail containing over 1 percent of a renewable fuel ethanol by volume shall be identified with a decal located on front of the motor vehicle fuel pump and placed between 30” and 50” above the driveway level or in an alternative location approved by the department. The appearance of the decal shall conform to the following standards adopted by the renewable fuels and coproducts advisory committee:

12.4(1) ~~The only two sizes~~ minimum design size of decals department-approved are the following: ~~decals is 1.25” by 2.5”.~~

~~a. A design of 1.25” by 4”.~~

~~b. A design of 2” by 6”.~~

12.4(2) ~~All labels shall~~ Labels may have the word “with” in letters a minimum of .1875” high, and shall have the name of the renewable fuel in letters a minimum of .5” high.

~~12.4(3)~~ The use of color, design and wording shall be approved by the renewable fuels and coproducts advisory committee. The coordinator may receive input from any party, including the weights and measures bureau of the department, in recommending the color, design, and wording. The advisory committee shall approve the color, design, and wording of the decal to promote the use of renewable fuels.

~~12.4(4)~~ 12.4(3) All black and white ethanol fuel pump stickers shall be replaced by department-approved colorful “American Ethanol” fuel pump decals effective ~~July~~ January 1, 1995 ~~2018~~.

ITEM 3. Amend rule ~~21—13.1(159A)~~, definition of “Project,” as follows:

“Project” means the installation of equipment for motor fuel storage, dispensing and distribution of E-15 or E-85 gasoline, biodiesel or biodiesel blend.

ITEM 4. Amend paragraphs ~~14.2(3)“b”~~ to “f” as follows:

~~b.~~ The fuel storage tank may be on a tank vehicle or transport if regularly parked overnight in Iowa.

~~c.~~ The storage tank must, however, be used exclusively for retail delivery to the final consumer.

~~d.~~ If a tank has multiple compartments, at least one of the compartments must be used exclusively for the storage and dispensing of ethanol blended gasoline at or between E-15 and E-85 gasoline, biodiesel or biodiesel blended fuel at retail. The compartment used exclusively for the storage of ethanol blended gasoline at or between E-15 and E-85 gasoline, biodiesel or biodiesel blended fuel is considered the tank for purposes of this program.

~~e.~~ The tank and ancillary equipment must be approved for ethanol blended gasoline at or between E-15 and E-85 gasoline, biodiesel or biodiesel blended fuel use by either the Iowa department of natural resources or the state fire marshal, as evidenced by the most recent IDNR checklist.

~~f.~~ The dispenser and dispenser components must be described by type and model in a written statement listed by an independent testing laboratory, approved by the manufacturer of the dispenser. The manufacturer’s written statement must be signed by a responsible official on behalf of the manufacturer and must be provided either to the applicant or to the Iowa department of natural resources or approved by the state fire marshal as compatible with ethanol blended gasoline at or between E-15 and E-85. If provided to the applicant, the statement must be kept on file on the premises of the applicant for the five-year term of the agreement. The written statement must state that:

~~(1) The dispenser is, in the opinion of the manufacturer, not incompatible with E-85 gasoline; and~~

~~(2) The manufacturer has initiated the process of applying to an independent testing laboratory for listing of the equipment used in dispensing E-85 gasoline.~~

An Iowa-licensed installer has been identified to perform the installation.

ITEM 5. Amend subparagraph ~~16.2(3)“a”(3)~~ as follows:

(3) Supplemental financial incentives. A person may be granted supplemental financial incentives as an amendment to the cost-share agreement.

1. No change.

2. Supplemental award for additional tank and associated infrastructure. A person may request a supplemental financial incentive for tank and associated infrastructure, as an amendment to the subsequent cost-share agreement(s). The purpose of an award for an additional tank(s) and associated infrastructure is to accelerate the installation of an additional tank(s) and associated infrastructure at an additional retail motor fuel site after an initial grant award is provided. ~~To be eligible, the initial grant award must be awarded to the person on or after May 12, 2008.~~ The maximum award amount available as a supplemental financial incentive is \$6,000 per supplemental site. The person is limited to four supplemental financial incentive awards within the 12-month period following the completion of the initial retail motor fuel site project.

ITEM 6. Amend subparagraph ~~16.2(3)“b”(2)~~ as follows:

(2) Biodiesel fuel B99/B100 for year-round distribution.

1. Duration. The duration of a cost-share agreement is five years.

2. Maximum award amount. The maximum award amount is 50 percent of the actual cost of making the improvements or \$100,000, whichever is less.

3. ~~Application acceptance begins January 1, 2009. Grant applications for B99/B100 projects will be accepted beginning January 1, 2009.~~

4. ~~3.~~ Lifetime cap amount. The maximum or lifetime cap for B99/B100 biodiesel terminal grants is \$800,000 per person.

ITEM 7. Rescind and reserve paragraph **16.2(3)“c.”**

ITEM 8. Amend subrule 16.2(7) as follows:

16.2(7) Exhaustion of funds. In the event funding is exhausted at the end of the fiscal year ~~or June 30, 2012~~, the board shall approve remaining applications based on criteria implemented by the board.

ITEM 9. Amend subparagraph **16.3(2)“b”(2)** as follows:

(2) Assurance that all equipment funded by the grant is designed and will be used exclusively to store or dispense E-15 or E-85 gasoline, biodiesel or biodiesel blended fuel, respectively, for the period specified in the agreement.

ITEM 10. Amend subparagraph **16.5(5)“a”(2)** as follows:

(2) Waiver due to demonstration of financial hardship (repayment on a sliding scale and no 25 percent penalty). A grant recipient may seek a permanent waiver of exclusive use of the approved renewable fuel during the time period in which a cost-share agreement is in effect due to financial hardship. The grant recipient must demonstrate that continuing to dispense the renewable fuel at a project site will cause a financial hardship. A request for waiver due to financial hardship shall include documentation to show a “good faith” effort to market the fuel, specifically the most recent six-month history of gallons of approved renewable fuel sold by month, marketing/advertising efforts, retail price comparison of E-15 or E-85 to E-10 (or regular gasoline) or of biodiesel to regular diesel. If a waiver is granted, the 25 percent penalty will not be assessed, but the grant funds shall be repaid as follows:

1. and 2. No change.

ITEM 11. Amend subrule 85.48(10) as follows:

85.48(10) Weights and measures motor vehicle fuels decals. All motor vehicle fuel kept, offered or exposed for sale or sold at retail containing over 1 percent ~~of a renewable fuel~~ ethanol by volume shall be identified with a decal located on front of the motor vehicle fuel pump and placed between 30" and 50" above the driveway level or in an alternative location approved by the department. The appearance of the decal shall conform to the following standards adopted by the renewable fuels and coproducts advisory committee:

a. ~~The only two sizes~~ minimum design size of decals department-approved are the following: decals is 1.25" by 2.5".

~~(1) A design of 1.25" by 4".~~

~~(2) A design of 2" by 6".~~

b. ~~All labels shall~~ Labels may have the word “with” in letters a minimum of .1875" high, and shall have the name of the renewable fuel in letters a minimum of .5" high.

c. ~~The use of color, design and wording shall be approved by the renewable fuels and coproducts advisory committee. The coordinator may receive input from any party including the weights and measures bureau of the department in recommending the color, design, and wording. The advisory committee shall approve the color, design, and wording to promote the use of renewable fuels.~~

d. ~~All black and white~~ ethanol fuel pump stickers shall be replaced by department-approved colorful “American Ethanol” fuel pump decals effective July January 1, 1995 2018.

e. to g. No change.

ITEM 12. Amend subrule 85.48(11) as follows:

85.48(11) Ethanol blended gasoline classified as higher than E-15 shall have a department-approved visible, legible “for flex fuel vehicle ~~only~~” sticker on the pump or pump handle. The updated decals need to be in place by January 1, 2018.

ITEM 13. Adopt the following **new** subrule 85.48(13):
85.48(13) Ethanol blended gasoline classified with an octane rating of 87 or higher may be labeled or advertised as “super” or “plus.”

[Filed 5/18/16, effective 7/13/16]

[Published 6/8/16]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 6/8/16.